



Sen. Michael Noland

Filed: 4/15/2013

09800SB1458sam001

LRB098 02584 CEL 44695 a

1 AMENDMENT TO SENATE BILL 1458

2 AMENDMENT NO. _____. Amend Senate Bill 1458 by replacing
3 everything after the enacting clause with the following:

4 "Section 5. The Illinois Gas Pipeline Safety Act is amended
5 by adding Sections 2.08, 2.09, 2.10, 2.11, and 7.5 and by
6 changing Section 7 as follows:

7 (220 ILCS 20/2.08 new)

8 Sec. 2.08. Notice of probable violation. "Notice of
9 probable violation" or "NOPV" means a written notice,
10 satisfying the criteria set forth in Section 7.5 of this Act,
11 given by the pipeline safety manager to a person who engages in
12 the transportation of gas or who owns or operates pipeline
13 facilities that identifies a failure of such person to comply
14 with the provisions of this Act, the federal Natural Gas
15 Pipeline Safety Act of 1968, or any Commission order or rule
16 issued under this Act and may recommend a penalty in connection

1 therewith, subject to the terms of this Act.

2 (220 ILCS 20/2.09 new)

3 Sec. 2.09. Pipeline safety manager. "Pipeline safety
4 manager" means the manager of the Commission's Pipeline Safety
5 Program or other staff of the Commission assigned to gas
6 pipeline safety issues.

7 (220 ILCS 20/7) (from Ch. 111 2/3, par. 557)

8 Sec. 7. Penalties; action for penalties; Commission
9 approval of penalties.

10 (a) Any person violating paragraph (a) of Section 6 of this
11 Act or any rule or order issued under this Act is subject to a
12 civil penalty not to exceed the maximum penalties established
13 by Section 60122(a)(1) of Title 49 of the United States Code
14 for each day the violation persists. Such civil penalties do
15 not apply to a violation with respect to a pipeline facility in
16 existence on the effective date of this Act unless such
17 violation persists one year from the effective date.

18 (b) Any civil penalty may be compromised by the Commission
19 or, subject to this Act, by the pipeline safety manager. In
20 determining the amount of the penalty, or the amount agreed
21 upon in compromise, the Commission or, subject to this Act, the
22 pipeline safety manager, as the case may be, shall consider the
23 appropriateness of the penalty to the size of the business of
24 the person charged, the gravity of the violation, and the good

1 faith of the person charged in attempting to achieve
2 compliance, after notification of a violation. The amount of
3 the penalty when finally determined, or the amount agreed upon
4 in compromise, shall be paid or ~~may be~~ deducted from any sums
5 owing by the State of Illinois to the person charged pursuant
6 to the terms and conditions of the NOPV or the agreed
7 compromise or Commission order, as the case may be, or may be
8 recovered in a civil action in accordance with paragraph (c) of
9 this Section 7. Unless specifically stated otherwise in the
10 terms and conditions of any compromise agreement, any
11 compromise of a penalty recommended in an NOPV by the person
12 charged shall not be deemed to be an admission of liability.

13 (c) Actions to recover penalties under this Act shall be
14 brought in the name of the People of the State of Illinois in
15 the circuit court in and for the county in which the cause or
16 some part thereof, arose or in which the corporation complained
17 of, if any, has its principal place of business or in which the
18 person, if any, complained of, resides. All penalties recovered
19 by the State in any action shall be paid into the general fund
20 of the State Treasury. The action shall be commenced and
21 prosecuted to final judgment by the Attorney General on behalf
22 of the Commission. In all such actions, the procedure and rules
23 of evidence shall conform with the Civil Practice Law and other
24 rules of court governing civil trials.

25 (d) In addition the Commission may proceed under Section
26 4-202 of the Public Utilities Act, either by mandamus or

1 injunction, to secure compliance with its rules, regulations
2 and orders issued under this Act.

3 (e) Any person penalized under this Section is not subject,
4 for the same cause, to any other penalty provided in the Public
5 Utilities Act.

6 (f) In the event any penalty recommended by the pipeline
7 safety manager is paid by the person charged in the applicable
8 NOPV in accordance with subsection (b) of this Section or in
9 accordance with the terms and conditions of a compromise,
10 agreed upon by such person and the pipeline safety manager,
11 then the pipeline safety manager shall report, and request
12 approval of, each such payment of a recommended penalty or
13 agreed compromise, as the case may be, to the Commission at a
14 public meeting of the Commission and shall also post such
15 report on the Commission's website as a public document subject
16 to the requirements of Section 4-404 of the Public Utilities
17 Act. Whenever such report and request for approval shall be
18 made to the Commission, the Commission shall have the power,
19 and it is hereby given authority, either upon complaint or upon
20 its own motion, upon reasonable notice given within 45 days
21 after such report and request for approval was made at a public
22 meeting of the Commission, to enter upon a hearing concerning
23 the propriety of the applicable NOPV, payment, or compromise.
24 In the event the Commission does not exercise this power within
25 the 45-day period, the payment or agreed compromise referenced
26 in the report shall be deemed approved by the Commission by

1 operation of law at the expiration of the 45-day period and the
2 NOPV and related investigation shall be deemed closed.

3 (Source: P.A. 91-814, eff. 6-13-00.)

4 (220 ILCS 20/7.5 new)

5 Sec. 7.5. NOPV; Commission hearing.

6 (a) For the purposes of this Section "violation" means a
7 failure to comply with any provision of this Act or any
8 Commission order or rule issued under this Act.

9 (b) After investigation and determination of a probable
10 violation, the pipeline safety manager may issue and deposit in
11 the United States mail an NOPV. Any NOPV so issued and mailed
12 may also be posted on the Commission's website as a public
13 document, subject to the requirements of Section 4-404 of the
14 Public Utilities Act.

15 (c) An NOPV shall set forth, at a minimum, the following:
16 (1) the date the NOPV was issued and deposited in the United
17 States mail; (2) a description of the violation or violations
18 alleged; (3) the date and location of the safety incident, if
19 applicable, related to each alleged violation; (4) a detailed
20 description of the circumstances that support the
21 determination of each proposed violation; (5) a detailed
22 description of the corrective action required with respect to
23 each proposed violation; (6) the amount of the penalty, if any,
24 recommended with respect to each proposed violation; (7) the
25 applicable recommended deadline for payment of each proposed

1 penalty and for completion of each proposed corrective action
2 (in no event shall any recommended deadline be less than 30
3 days after the date of the NOPV); (8) notification that any
4 such recommended deadline may be extended by mutual agreement
5 of the parties for the purpose of facilitating settlement or
6 compromise; and (9) a brief description of the procedures by
7 which any recommended penalty or proposed corrective action may
8 be challenged at the Commission or approved pursuant to
9 subsection (f) of Section 7.

10 (d) Payment in full of each of the recommended penalties
11 and full completion of each of the proposed corrective actions,
12 as identified in the NOPV and in accordance with the terms and
13 conditions set forth in the NOPV, including without limitation
14 the respective recommended deadlines set forth in the NOPV for
15 such payment or completion, shall constitute a final resolution
16 of the NOPV, subject to the approval by the Commission of the
17 recommended penalty and payment in accordance with subsection
18 (f) of Section 7.

19 (e) If one or more of the alleged violations set forth in
20 an NOPV is contested, then the Commission shall have the power
21 and it is hereby given authority, either upon complaint or upon
22 its own motion, upon reasonable notice, to enter upon a hearing
23 under this Act concerning the incident referenced in the NOPV,
24 in accordance with Article X of the Public Utilities Act. If a
25 recommended penalty is not paid prior to the deadline
26 recommended in the NOPV or other mutually agreed upon date, or

1 if one or more of the proposed corrective actions set forth in
2 an NOPV is not fully and timely completed in accordance with
3 the terms and conditions set forth in the NOPV, the NOPV shall
4 be deemed contested.

5 (f) The Commission shall have the power to adopt rules to
6 implement this Section, to the extent the Commission deems such
7 rules necessary or desirable.

8 Section 99. Effective date. This Act takes effect upon
9 becoming law.".